

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON BOWERS,

Petitioner,

Case Number: 16-CV-13615

HONORABLE BERNARD A. FRIEDMAN

v.

BONITA HOFFNER,

Respondent.

OPINION AND ORDER TRANSFERRING CASE TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Petitioner Jason Bowers, a Michigan state prisoner, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. For the reasons set forth below, the Court determines that this is a successive habeas corpus petition and, therefore, orders it transferred to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631¹ and 28 U.S.C. § 2244(b)(3)(A).

Petitioner challenges his 2007 second-degree murder convictions, Mich. Comp. Laws (“MCL”) § 750.317, three counts of assault with intent to murder, MCL § 750.83, felon in possession of a firearm, MCL § 750.224f, and felony firearm, MCL § 750.227b.

¹ 28 U.S.C. § 1631 provides, in relevant part, that when a Court finds that a civil action lacks “jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed.”

In 2009, Petitioner filed a habeas corpus petition challenging the same convictions challenged in this petition. The petition was denied on the merits. *See Bowers v. Ludwick*, No. 09-14169, 2011 WL 977522 (E.D. Mich. March 17, 2011). Before a prisoner may file a habeas petition challenging a conviction that has already been challenged in a prior habeas petition, the prisoner must “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained from the Court of Appeals for the Sixth Circuit authorization to file a successive petition in this court. When a second or successive petition for habeas corpus relief is filed in the district court without prior authorization, the district court must transfer the petition to the Court of Appeals pursuant to 28 U.S.C. § 1631. *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Accordingly, the Court ORDERS the District Court Clerk to transfer this case to the United States Court of Appeals for the Sixth Circuit.

SO ORDERED.

s/ Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

Dated: October 21, 2016
Detroit, Michigan